

TRACI A. SMITH)
 Claimant)
 VS.)
)
 7-ELEVEN)
 Respondent)
 AND)
)
 AMERICAN PROTECTION INSURANCE COMPANY)
 Insurance Carrier)

Docket No. 223,647

The evidence establishes that claimant was hired by respondent on May 27, 1997, and was attending a three-day training session when she passed out and started to fall to the floor. Two cotrainees caught claimant and helped her to the floor. Claimant testified she did not hit her head and did not lose consciousness for more than a brief moment.

Claimant seeks here to recover for injuries to her right chest and in her right shoulder area diagnosed by P. Brent Koprivica, M.D., as fibromyalgia.

The Administrative Law Judge found that claimant did not suffer an accidental injury arising out of and in the course of her employment, and the Appeals Board agrees. The record establishes claimant had a history of fainting or swooning spells before going to work for respondent. Claimant testified that it was unusually close quarters and unusually warm at the time of her fainting spell. Other persons present testified that the room was comfortable. The evidence establishes that the outdoor temperature was between 51 and 57 degrees. The Appeals Board finds from the evidence that claimant has not established that the conditions were unusually warm.

The Appeals Board also finds that there was not, therefore, any risk of employment contributing to the injuries. The injuries were the result of a personal risk. For that reason, the Appeals Board agrees with and affirms the finding that the injuries did not arise out of and in the course of employment.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Order dated October 1, 1997, entered by Administrative Law Judge Julie A. N. Sample, should be, and is hereby, affirmed.

IT IS SO ORDERED.

Dated this ____ day of November 1997.

BOARD MEMBER

c: Leah Brown Burkhead, Mission, KS
Rex W. Henoch, Lenexa, KS
Julie A. N. Sample, Administrative Law Judge
Philip S. Harness, Director